

Department of Veterans Affairs  
National Acquisition Center

Title: Consolidated Mail Outpatient Pharmacy Direct to Patient Services

Justification for Other than Full and Open Competition

This document sets forth the justification and approval for other than full and open competition for the acquisition described herein, under the authority of FAR 6.302-1 "only one responsible source and no other supplies or services will satisfy agency requirements".

**1. Nature and/or description of the action being approved.**

The Consolidated Mail Outpatient Pharmacy (CMOP) intends to enter into a short term, sole-source contract with McKesson Medical-Surgical Minnesota Supply, Inc., (McKesson) as the Direct to Patient (DTP) contractor for the distribution of certain nutritional products and supplies. This short term contract is to ensure continuous delivery of products to our Veterans' place of residence while a new solicitation is being developed for the contract that will replace the DTP contract currently held by McKesson expiring August 29, 2013.

A bridge contract is required to maintain services during the process of developing a new, follow-on solicitation. Due to numerous and significant changes in the scope of work requirements, including revision of quality and monitoring standards; extensive review requirements not requisite at the time of the previous solicitation; and, specific IT requirements that were not included in the original solicitation and resultant award, an unavoidable delay in actions by the IPT, COR and Contracting Officer have resulted. Additionally, shipping processes will be shifting from the DTP contractor to a mail packaging consolidator. Award of the mail consolidator contract will change the scope of the DTP contract since the DTP contractor will no longer be responsible for mailing and shipment of packages from their facilities. Because the scope of the new DTP solicitation will be impacted so significantly by award of the consolidator contract, development of the final SOW for this DTP contract is currently on hold. Currently the document is in the drafting stage with no known release date. Failure to provide a bridge contract will result in impending serious delays of needed product delivery to our veterans and will place extreme burden on the individual CMOPs in order to provide these services.

The proposed short term contracting action is for a Firm-Fixed Price, Indefinite-Delivery, Requirements contract for the period of August 30, 2013 to February 28, 2014, and two options for an additional 90 days, each, if required. The estimated value of the contract including options is ~~approximately~~ *not to exceed* \$10,000,000.

**2. Description of the supplies/services required to meet the Agency's needs.**

The purpose of this contract is to provide the National CMOP program with a source for the supporting services of direct-to-patient distribution of certain nutritional products and supplies. The DTP contract covers the 50 states, Washington, DC, and Puerto Rico. The net price of the products furnished under this contract is the prevailing Government contracted price plus awarded distribution fees. Shipping is reimbursed to the Contractor. A standardized list of products has been developed for distribution and provided to the Contractor. CMOP believes that the volume of work has the same potential for growth commensurate to the workload growth for the VA's pharmacy system.

The DTP contractor is required to maintain adequate supply and distribute requested products, all of which are available under various Government contracts - Federal Supply Schedules (FSS), VA National Contracts, Basic Ordering Agreements, and miscellaneous other Government contracts.

The DTP Contractor is required to electronically interface with all seven CMOP facilities, maintain a 95% fill rate, and meet or exceed timeliness standards of:

*6*  
*7/26/13*

- 95% of all line items must be staged for carrier pick up no later than 1 business day from time of transmission
- 99% of all line items must be staged for carrier pick up no later than 2 business days from time of transmission
- The remaining 1% - of all line items must be resolved by alternative approved methods by the end of the 3<sup>rd</sup> business day.

### **3. Identification of the statutory authority permitting other than full and open competition.**

The statutory authority permitting other than full and open competition is 41 U.S.C. 253 (c) (1) and FAR 6.302-1, which authorizes, under certain conditions, contracting without providing for full and open competition when the agency's need for the supplies or services can be provided from only one responsible source and no other supplies or services will satisfy agency requirements.

### **4. Demonstration that the proposed contractor's unique qualifications or the nature of the acquisition requires use of the authority cited.**

This contract is unique in that it is the only contract of its type in VA that provides direct to patient delivery of supplies. McKesson Medical-Surgical Minnesota Supply Inc. is the current CMOP DTP contractor and has been performing under the current contract close to 5 years. Short term, McKesson is the only wholesale distribution contractor that can meet the Government's requirements. To ensure uninterrupted supply of supplies, and not compromise patient care, this short term contract must start performance on August 30, 2013.

The current DTP contractor is required to deliver certain nutritional products and supplies distributed by 7 CMOPs on a daily basis by use of a secure electronic interface. If CMOP was to attempt to contract with a wholesale distribution contractor other than McKesson, it would have to establish an approved, secure interface with this entity so that they are able to receive prescriptions and pay for those orders. Timely delivery of nutritionals and supplies is crucial for providing appropriate medical care to patients.

A contractor not currently doing business with VA would not have Government contract prices loaded in their system and may not have business agreements with manufacturers and vendors doing business with the Government. Currently, approximately 54 line items from multiple contract sources have been standardized for distribution from the DTP Contractor, requiring the contractor to have sufficient warehouse capacity and packaging and shipping capabilities to provide uninterrupted services for all 7 CMOPs. An average of 700 prescriptions per week are received and processed by McKesson. Additionally, a contractor other than McKesson would have to establish purchase and reimbursement agreements with each of the Government's contracted manufacturers and vendors to ensure that CMOP is paying the Government contracted prices.

The tasks listed above not only require time and money but also a fair number of skilled personnel to establish accounts, negotiate purchase agreements with product suppliers, forecast inventory, order and receive inventory and adjust delivery schedules. A contractor other than McKesson would have to incur startup costs and a contractor that is not guaranteed long term business commitment is unlikely to incur such costs.

For the above reasons, the Government's needs are best served by a short term sole-source contract with McKesson as they are the only contractor capable of fulfilling the Government's requirements without unacceptable disruption to operations and significant potential risks to patient care.

### **5. Description of the efforts made to ensure that offers are solicited from as many potential sources as is practicable, including whether a notice was or will be publicized as required by Subpart 5.2 and, if not, which exception under 5.202 applies.**

In accordance with FAR Part 6, the contracting officer will post the approved Sole Source Justification and summary of the DTP contract at Federal Business Opportunities ([www.fbo.gov](http://www.fbo.gov)) for informational

purposes only. The contracting officer has determined that competitive short term procurement is impractical and not in the best interest of the Government.

**6. A determination by the contracting officer that the anticipated cost to the Government will be fair and reasonable.**

The items distributed under the DTP contract are already under Government contracts with prices negotiated and determined fair and reasonable by the Government. The prices of the items distributed under the DTP contract are separate from the distribution fees offered by the DTP contractor. The DTP Contractor provides two distribution fees – one for products distributed from McKesson's current FSS contracts, and another, higher fee for non-McKesson contract items. The contracting officer intends to negotiate with McKesson to have the same or better distribution fees as the current contract. The Department of Veterans Affairs expects to award fair and reasonable fees on the resultant short-term DTP contract.

**7. A description of the market research conducted, the results or a statement of the reason market research was not conducted.**

Market research was initially conducted concerning the nutritional manufacturing industry and it was discovered that there were five major providers in the market place: Cardinal Health, Medline, McKesson, Independence Medical, Abbott and Nestle each of whom submitted proposals in response to the solicitation which resulted in the award to McKesson. Updated market research has indicated that these market conditions have not changed. No other sources can satisfactorily meet the requirements of the DTP contract in a short period of time. This short term contract will commence performance on August 30, 2013. The compelling need to have a DTP contract immediately and the logistics of implementing a complex contract like the DTP contract, dictates that only the incumbent DTP contractor can perform.

**8. List of sources, if any, that expressed interest in the acquisition.**

Not applicable for the reasons stated herein in this document.

**9. Statement of actions the agency may take to remove or overcome any barriers to competition before any subsequent acquisition for the supplies or services required.**

This is a onetime short contract from August 30, 2013 to February 28, 2014 with an option for two additional 90 day periods to cover the transition period that new DTP contractor needs to implement the new DTP successor contract. This bridge contract will ensure continuous delivery of certain Nutritional products and supplies to the veteran. The new DTP contract solicitation will be based on full and open competition.

#### TECHNICAL AND REQUIREMENTS CERTIFICATION

I certify that the facts and representations under my cognizance which are included in this justification and which form a basis for this justification are complete and accurate.

David E. Zacher  
David Zacher  
Associate Deputy Chief Consultant PBM/CMOP

6/13/2013  
Date

#### CONTRACTING OFFICER CERTIFICATION

I certify that this justification is accurate and complete to the best of my knowledge and belief.

Evelyn Halliburton-Shannon  
Evelyn Halliburton-Shannon, Contracting Officer  
VA National Acquisition Center, Hines, Illinois

5/23/2013  
Date

#### LEGAL CONCURRENCE

I have reviewed this justification and approval and has been found to be legally sufficient.

Maria Buson  
Office of General Counsel

June 13, 2013  
Date

#### HEAD OF CONTRACTING ACTIVITY REVIEW AND APPROVAL

Approval of this action is granted based on the above Justification and Certifications from Pharmacy Benefits Management and the Contracting Officer.

Craig Robinson  
Craig Robinson, Head of Contracting Activity  
VA National Acquisition Center, Hines, Illinois

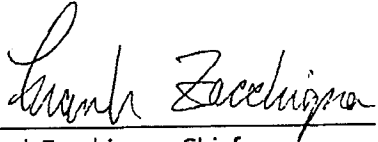
07/11/2013  
Date

#### SENIOR PROCUREMENT EXECUTIVE REVIEW AND APPROVAL

Approval of this action is granted based on the above Justification and Certifications from the Head of Contracting Activity

Jan Frye  
~~Jan Frye, Senior Procurement Executive~~  
Date 7/26/13  
Craig Robinson, Head of Contracting Activity

- a. **NAC CMOP Chief:** I certify the justification meets requirements for other than full and open competition.

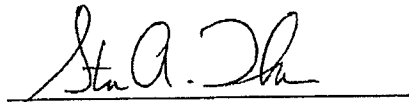


Frank Zacchigna – Chief  
VA National Acquisition Center - CMOP

7/8/13

Date

- b. **NCS Director:** I certify the justification meets requirements for other than full and open competition.



Steve Thomas - Director  
National Contract Service  
VA National Acquisition Center

7/9/13

Date

**NOTE TO REVIEWER**

**VAIQ Number:** 7376069

**Date:** July 24, 2013

**Subject:** Justification for Other than Full and Open Competition for Direct to Patient (DTP) Distribution of Certain Nutritional Products and Supplies

**The Office of Procurement Policy, Systems and Oversight (003A2A)** received the Request for Review on July 23, 2013, and completed its review on July 24, 2013. **PPS non-concur with this action.**

**Recommendation:** The National Acquisition Center (NAC), Hines, Illinois must identify the "not to exceed" contract value of this acquisition. Clarity must be obtained regarding the contract value in order to determine who has statutory authority to approve the Justification and Approval (J&A).

Presently, the J&A states that the estimated value of the contract including the two 90-day options is **approximately** \$10 million. The use of the word "approximately" does not define the contract value range, but rather the use of the term "not to exceed" would define the value range necessary to make a determination in accordance with the Federal Acquisition Regulation (FAR) Part 6.304(a)(2) – **Approval of the Justification** that states for a proposed contract over \$650,000 but not exceeding \$12.5 million, the procuring activity Competition Advocate may approve the J&A. Additionally, VA Acquisition Regulation (VAAR) authorizes the Contracting Activity Competition Advocate to approve a J&A if it does not exceed \$10 million.

Conversely, VAAR 806.304(a)(3) states that if the contract value is over \$10 million but not exceeding \$50 million the Agency Competition Advocate will approve the J&A.

VAAR 806.501(b) states that the Executive Director and Chief Operating Officer, National Acquisition Center (NAC), is the Contracting Activity Competition Advocate for the Center and VAAR 806.501(c) identifies the Head of the Contracting Activity (HCA) as the Contracting Activity Competition Advocate in all other cases.

Therefore, if this contract requirement does not exceed \$10 million, the NAC's Executive Director and Chief Operating Officer may approve this J&A. However, if it exceeds \$10 million, but does not exceed \$50 million, the Deputy Senior Procurement Executive (DSPE) has the authority to approve the J&A.

**Background:** This is a one-year, sole source, firm-fixed price (FFP), indefinite-delivery bridge contract with McKesson Medical-Surgical Minnesota Supply, Inc., (McKesson) as the Direct to Patient (DTP) contractor for the continued distribution of certain nutritional products and supplies. The contract covers the period of August 30, 2013 to February 28, 2014, with two options for an additional 90 days, each, if required. The current contract with McKesson expires August 29, 2013.

**Justification:** Clarity must be obtained regarding the contract value in order to determine who has statutory authority to approve the Justification and Approval (J&A).

Should you need additional information, please contact the subject matter expert:

Name: Waleska Pierantoni-Monge  
Title: Senior Procurement Analyst  
Telephone: 202-632-5400  
E-mail: [waleska.pierantoni-monge@va.gov](mailto:waleska.pierantoni-monge@va.gov)



Department of Veterans Affairs

## CONCURRENCE AND SUMMARY SHEET

SUBJECT

Justification for Other than Full and Open Competition for Direct to Patient Distribution of Certain Nutritional Products and Supplies.

NAME OF ADDRESSEE (For Correspondence Only)

TO BE COMPLETED BY EXECUTIVE SECRETARIAT (001B)

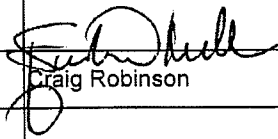
REMARKS

CONTROL NO.

7376069

NAME OF REVIEWER

CONCURRENCES - TO BE DETERMINED BY THE ORIGINATING OFFICE

CONCURRENCE REQUIRED	TITLE OR ORGANIZATIONAL ELEMENT	MAIL ROUTING SYMBOL	DATE IN	SIGNATURES		DATE OUT
				CONCURRENCE	NONCONCURRENCE	
	VETERANS HEALTH ADMINISTRATION	10				
	VETERANS BENEFITS ADMINISTRATION	20				
	NATIONAL CEMETERY ADMINISTRATION	40				
	OFFICE OF INSPECTOR GENERAL	50				
	OFFICE OF PUBLIC AND INTERGOVERNMENTAL AFFAIRS	002				
	OFFICE OF ACQUISITION, LOGISTICS & CONSTRUCTION	003				
	OFFICE OF MANAGEMENT	004				
	OFFICE OF INFORMATION AND TECHNOLOGY	005				
	OFFICE OF HUMAN RESOURCES AND ADMINISTRATION	006				
	OFFICE OF OPERATIONS SECURITY AND PREPAREDNESS	007				
	OFFICE OF POLICY AND PLANNING	008				
	OFFICE OF CONGRESSIONAL AND LEGISLATIVE AFFAIRS	009				
	BOARD OF VETERANS' APPEALS	01				
	OFFICE OF THE GENERAL COUNSEL	02				
	VETERANS SERVICE ORGANIZATION LIAISON	00C				
	OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION	00SB				
	WHITE HOUSE LIAISON	WHL				
	DEPUTY ASSISTANT SECRETARY FOR ACQUISITION AND LOGISTICS	003A				
X	ADAS FOR NATIONAL HEALTHCARE ACQUISITIONS	003A4		 Craig Robinson		07/11/13

NAME OF AUTHORIZED SIGNER

SIGNATURE OF INITIATING KEY OFFICIAL OR AUTHORIZED SIGNER

DATE



Department of Veterans Affairs

## CONCURRENCE AND SUMMARY SHEET

SUBJECT

Justification for Other than Full and Open Competition for Direct to Patient (DTP) Distribution of Certain Nutritional Products and Supplies

NAME OF ADDRESSEE (For Correspondence Only)

TO BE COMPLETED BY EXECUTIVE SECRETARIAT (001B)

REMARKS

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	OFFICE OF MANAGEMENT	004				
	OFFICE OF INFORMATION AND TECHNOLOGY	005				
	OFFICE OF HUMAN RESOURCES AND ADMINISTRATION	006				
	OFFICE OF OPERATIONS SECURITY AND PREPAREDNESS	007				
	OFFICE OF POLICY AND PLANNING	008				
	OFFICE OF CONGRESSIONAL AND LEGISLATIVE AFFAIRS	009				
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	OFFICE OF THE GENERAL COUNSEL	02				
	VETERANS SERVICE ORGANIZATION LIAISON	00C				
	OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION	00SB				
	WHITE HOUSE LIAISON	WHL				
X	OFFICE OF ACQUISITION AND LOGISTICS	003A				
X	OFFICE OF PROCUREMENT POLICY, SYSTEMS AND OVERSIGHT	003A2				
X	PROCUREMENT POLICY AND WARRANT MANAGEMENT SERVICE	003A2A				
	ENTERPRISE ACQUISITION SYSTEMS SERVICE	003A2B				
	OAL PROGRAMS AND POLICY DIRECTOR OF RISK MANAGEMENT	003A2C				

NAME OF AUTHORIZED SIGNER

Marilyn Harris

SIGNATURE OF INITIATING KEY OFFICIAL OR AUTHORIZED SIGNER

DATE



**CONCURRENCE AND SUMMARY SHEET**  
(Continued)

**PURPOSE - DISCUSSION - IMPLICATIONS**

**PURPOSE:** To review the National Acquisition Center (NAC), Hines, Illinois, Justification and Approval (J&A) to ensure it complies with the Federal Acquisition Regulation (FAR), the VA Acquisition Regulation (VAAR), and determine who has the statutory authority to approve the J&A.

**DISCUSSION:** The NAC, Hines, Illinois must identify the "not to exceed" contract value of this acquisition. Clarity must be obtained regarding the contract value in order to determine who has statutory authority to approve the Justification and Approval (J&A).

Presently, the J&A states that the estimated value of the contract including the two 90-day options is **approximately** \$10 million. The use of the word "approximately" does not define the contract value range, but rather the use of the term "not to exceed" would define the value range necessary to make a determination in accordance with the Federal Acquisition Regulation (FAR) Part 6.304(a)(2) - Approval of the Justification that states for a proposed contract over \$650,000 but not exceeding \$12.5 million, the procuring activity Competition Advocate may approve the J&A. Additionally, VA Acquisition Regulation (VAAR) authorizes the Contracting Activity Competition Advocate to approve a J&A if it does not exceed \$10 million.

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**BACKGROUND:** This is a one-year, sole source, firm-fixed price (FFP), indefinite-delivery bridge contract with McKesson Medical-Surgical Minnesota Supply, Inc., (McKesson) as the Direct to Patient (DTP) contractor for the continued distribution of certain nutritional products and supplies. The contract covers the period of August 30, 2013 to February 28, 2014, with two options for an additional 90 days, each, if required. The current contract with McKesson expires August 29, 2013.

**IMPLICATIONS:** The current contract expires in one month; therefore, timely approving the J&A is in the best interest of the Government to continue medical services to the Veterans.

NAME OF CONTACT		SIGNATURE OF INITIATING ASSISTANT SECRETARY, ADMINISTRATION HEAD OR KEY STAFF OFFICE OFFICIAL	
Marilyn Harris			
SYMBOL	EXTENSION	TITLE	DATE
003A2A	202-632-5288	Director, Procurement Policy Service	